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Liability and You



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Volunteer vs. Good Samaritan



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What is a Volunteer?



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What is a Volunteer?

An individual performing services for a nonprofit organization or a government entity who is *not compensated* for his services on a salary or prorated equivalent basis



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What is a Volunteer?

An individual performing services for a nonprofit organization or a government entity who is *not compensated* for his services on a salary or **prorated equivalent basis**

Prorated equivalent basis: any other basis for compensation except that used to compensate for expenses actually incurred



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Volunteer Liability

Federal Statute: Volunteer Protection Act

Missouri Volunteer Protection



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Volunteer Liability

A volunteer is not liable for harm caused by an act or omission if:



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Volunteer Liability

A volunteer is not liable for harmed caused by an act or omission if:

- (1) he is acting *within the scope* if his responsibilities in the organization



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Volunteer Liability

A volunteer is not liable for harmed caused by an
act or omission if:

(2) he is properly certified or authorized to work in
the State where the harm occurred



Volunteer Liability

A volunteer is not liable for harmed caused by an act or omission if:

(3 a.) the damage or injury was not caused by intentional or malicious conduct or by the negligence of the volunteer (State)

(3 b.) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious flagrant indifference to the rights or safety of the individual harmed by the volunteer



Volunteer Liability

A volunteer is not liable for harmed caused by an act or omission if:

(4) the harm was not caused by the volunteer operating a vehicle where the State requires the owner to have a license and insurance



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Scope of Volunteer Liability



Scope of Volunteer Liability

1. Volunteer immunity is not immunity for the organization.
2. Volunteers are not immune from claims by the organization.



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Exceptions to Immunity



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Exceptions to Limitations on Liability

Limitation on liability will not apply to misconduct that:



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Exceptions to Immunity

Limitation on liability will not apply to misconduct that:
(1) constitutes a crime of violence or international terrorism for which the volunteer has been *convicted* in any court



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Exceptions to Limitations on Liability

Limitation on liability will not apply to misconduct that:
(2) constitutes a hate crime



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Exceptions to Immunity

Limitation on liability will not apply to misconduct that:
(3) involves a sexual offense for which the volunteer
has been *convicted* in any court



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Exceptions to Immunity

Limitation on liability will not apply to misconduct that:

- (4) involves misconduct where the volunteer has violated a Federal or State civil rights law



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Exceptions to Immunity

Limitation on liability will not apply to misconduct that:
(5) involves the volunteer being under the influence of
intoxicating alcohol or any drug at the time of the
misconduct



Plain English

1. Act only **WITHIN** what you are allowed and trained to do.
2. Do it the **WAY** you are trained to do it.
3. Do it **WHERE** you are allowed to do it.
4. No drugs or alcohol in your system while volunteering.



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Good Samaritan



Narrow exceptions

1. At the scene of emergency or accident (not called into the scene);
2. No charges for assistance.



Narrow exceptions

1. Licensed MD, RN, LPN, EMT
 - a. Includes minors without parental consent
2. Trained in “standard recognized” first aid training course and only to your level of training;
3. Anyone regarding suicide prevention at the scene of the threatened suicide;
4. Veterinarians helping animals.



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Limitations for good samaritans

1. Gross negligence
2. Willful or wanton acts or omissions



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What is “Gross Negligence?”

1. No statutory definition
2. No cases in Missouri dealing with volunteers or good samaritans.



“Gross Negligence”

1. From a 2012 Missouri Court of Appeals case involving Missouri Board of Chiropractic Examiners:
2. Reckless conduct done with knowledge that there is a strong possibility of harm and indifference as to that likely harm.



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Hypotheticals



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